

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:08CV67-03-MU

BRIAN KELLY FERGUSON,

Plaintiff,

v.

CAPTAIN CHRIS BRACKETT,

Defendant.

**ORDER**

**THIS MATTER** comes before the Court on the Court's own motion.

According to the record, on July 10, 2008, the Plaintiff filed a civil rights Complaint under 42 U.S.C. § 1983. By that Complaint, the Plaintiff alleges that Defendant Captain Chris Brackett interrupted his treatment for tuberculosis and as a result, Plaintiff claims that his serious medical needs were left untreated.

The record shows that on September 30, 2008, Plaintiff filed a Motion for Summary Judgment.<sup>1</sup> (Doc. No. 16.) The record also shows that on October 23, 2008, Defendant filed an Amended Answer to the Plaintiff's Complaint. By his Answer, Defendant Captain Brackett denied the material allegations of the Plaintiff's Complaint and asserts certain affirmative defenses, including the defense of qualified immunity and failure to state a claim for relief.

Accordingly, by the instant Order, the Court advises the parties that should they choose to

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<sup>1</sup> The Court notes that Plaintiff's Motion for Summary Judgment was filed prior to Defendant's Amended Answer.

file any dispositive motions, particularly motions for summary judgment, they must do so within forty-five (45) days of the date of this Order. In the event that the parties choose not to file any such motions, they should advise the Court of that fact within fourteen (14) days of the date of this Order. Furthermore, inasmuch as the plaintiff is appearing pro se, the Court specifically advises him that under the provisions of Rule 56(a) of the Federal Rules of Civil Procedure, he may “move with or without supporting affidavits for a summary judgment” in his favor upon all or any portion of his claims.

**NOW, THEREFORE, IT IS ORDERED:**

1. That the parties have forty-five (45) days from the date of this Order in which to file any dispositive motions which they may choose to file. However, in the event that either party chooses not to file a dispositive motion, such party shall advise the Court of that decision within fourteen (14) days of the date of this Order; and

2. That in the event any such dispositive motion is filed, the opposing party shall have thirty (30) days from the date of that party’s receipt of that motion in which to file a response with this Court.

**SO ORDERED.**

Signed: January 28, 2009



Graham C. Mullen  
United States District Judge

